



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CAMPAIGN & POLITICAL FINANCE

ONE ASHBURTON PLACE, ROOM 411  
BOSTON, MASSACHUSETTS 02108  
(617) 727-8352  
(800) 462-OCPPF

MICHAEL J. SULLIVAN  
DIRECTOR

March 11, 1996  
AO-96-12

Suzanne Smith  
25 Kent Square  
Brookline, MA 02146

Re: Political Activity by Administrative Law Judge

Dear Ms. Smith:

This letter is in response to your recent request for an advisory opinion regarding the extent to which you may, consistent with M.G.L. c. 55, the campaign finance law, become involved in certain political activities performed outside of ordinary business hours.

You have stated that you are an administrative law judge on the Industrial Accident Reviewing Board. As such, you are a member of the executive department, appointed by the Governor, and confirmed by the Governor's Council pursuant to M.G.L. c. 23E, s. 5. You receive a salary specified in Job Group M-X as set forth in M.G.L. c. 30, s. 46C.

Sections 13 and 15 of M.G.L. c. 55 provide the answers to most of your questions. Section 13 states that persons employed for compensation by the commonwealth or any county, city or town may not solicit or receive contributions "for any political purpose whatever." Section 15 provides that "persons in the service of the commonwealth or of any county, city or town" may not "give or deliver to an officer, clerk or [other] person in said service . . . any money or other valuable thing on account of, or to be applied to, the promotion of any political object whatever." (Emphasis added).

Your letter contains a number of questions. I will answer each question separately.

**1. May I belong to the Brookline Women's Republican Club?**

Yes, but you may not solicit or receive funds for the Club.

Although the Club is not a political committee, we assume that it is involved in "party-building" for the Republican Party, i.e., it sponsors events of interest, such as informative forums, for Republican Party supporters.<sup>1</sup> Although the campaign finance law does not prohibit your membership in such

---

<sup>1</sup> Such organizations which do not raise funds or make expenditures to influence elections or support candidates, are not subject to the registration and disclosure requirements of the campaign finance law. See AO-94-43.

a club (or in a political committee), sections 13 through 17 of chapter 55 do impose restrictions on public employees and public servants, since the Club is involved in furthering a political purpose.

In particular, as a public employee, you may not directly or indirectly solicit or receive contributions or give or deliver funds for the Club's purposes to other persons in the service of the commonwealth or any of its subdivisions. See AO-93-10.

**2. May I serve as an officer of the Brookline Republican Women's Club other than as treasurer?**

Yes, if you do not become involved in political fundraising activities. You may not serve as treasurer. As noted above, since you are a public employee, you may not even indirectly solicit or receive funds to be used for a political purpose. Although you technically could be chairman of the Club, such participation is not recommended in view of the restrictions imposed by the law. See AO-95-34. You may not, however, serve as treasurer.

**3. If so, am I prohibited from any activities?**

See discussion in response to questions 1 and 2. Although you may serve as an officer, you may not become involved in political fundraising activities. In addition, like any other person, you would be prohibited from soliciting political contributions in buildings occupied for municipal purposes. See M.G.L. c. 55, s. 14. I have enclosed "A Guide for State, County and Municipal Employees" which discusses additional restrictions applicable to persons in the public service and persons employed for compensation by the commonwealth or any of its subdivisions. The Guide contains a list of frequently asked questions which you may find helpful.

**4. Is there any distinction between my position and that of any other state employee including legal counsel for the central artery tunnel project, a division of the Massachusetts Highway Department, or an administrative assistant in the Public Safety Department?**

No, if the persons named in your question are "employed for compensation" by the commonwealth or a subdivision of the commonwealth.

If the legal counsel named in your question is an independent contractor, he or she is not "employed for compensation" and therefore not subject to s. 13. Moreover, since independent contractors are not "appointed," they are not subject to s. 15. See AO-95-26. An attorney who provides services to a government agency, but does not report to a state officer and is not under the control of a state officer would be considered an independent contractor. Id.

**5. May the Brookline Women's Republican Club engage in fundraising activities (a) for a candidate or (b) for its own coffers, if I am an officer?**

If the Club raises funds for a candidate, it must organize as a political committee. The Club should contact OCPF if you plan on raising money for state or county candidates. If you plan on raising funds for a municipal candidate or candidates, you should contact the Brookline Town Clerk first.

Regardless of whether the Club raises funds for a candidate, however, you may serve as an officer only if you do not participate in political fundraising activities. (See my response to Questions 1 and 2.)

**6. May my name or that of any other state employee appear on any fundraising literature?**

No. Section 13 prohibits a public employee's participation in political fund-raising activities. You may not directly solicit or receive monies for such purposes. In addition, you also may not indirectly solicit or receive monies. The prohibition against indirect fundraising means that "what a public employee can not do directly (ask a friend for a contribution) can not be done in a 'roundabout' or indirect manner (help someone else to ask the employee's friend)." See AO-93-10 and IB-92-01.

The campaign finance law in general, and section 13 in particular, are "designed to assure the fairness of elections and the appearance of fairness in the electoral process." See Anderson v. City of Boston, 376 Mass. 178, 195 (1978). This office has advised that section 13 is designed "to prohibit activities and behavior which a public employee can not engage in directly or which would lead a reasonable person to conclude that a public employee is or may be soliciting funds for a political purpose . . . a public employee should refrain from any activity which indicates support in a material way for the fundraising efforts of a candidate or political committee." See AO-93-01 and IB-92-01. Similarly, a public employee should refrain from indicating support for the fundraising activities undertaken by a group which is not a political committee, if the group is raising funds for a political purpose.

The prohibition means that a public employee may not allow his name to appear on the letterhead of a fund-raising letter or be the featured speaker at a fund-raising event. See AO-84-02 and AO-90-04. In addition, the public employee's involvement in an event may not be used as a "draw" encouraging political fundraising efforts. See AO-91-25.

**7. May the Brookline Women's Republican Club have a fundraiser and, if so, what limitations exist on a state employee's participation in the fundraiser?**

Yes, the Club can have a fundraiser, provided the funds are not being used to influence an election or support or oppose a candidate. Regarding restrictions on your participation, see my responses to your previous questions.

**8. Do the Brookline Women's Republican Club by-laws present any problems for state employees, and if so, how can the by-laws be amended to eliminate such problems?**

The By-laws do not appear to present any problems for state employees. As previously noted, however, state employees may not participate in the Club's fundraising activities.

**9. May I serve as an affiliate or full member on the Brookline Republican Town Committee?**

Yes. The prohibitions on political fundraising, discussed in response to your first and second questions, would still apply. Therefore, while you may be a member of the Brookline Republican Town Committee, you may not directly or indirectly solicit or receive contributions. In addition, you may not give or deliver funds to be used for political purposes to other persons in the service of the commonwealth or any of its subdivisions.

**10. May I serve as an officer in the Brookline Republican Town Committee other than as treasurer?**

Yes, if you comply with the restrictions noted above.

**11. What restrictions, if any, would there be on Town Republican Committee activities outside of regular business hours?**

There would be no restrictions on your political activities, other than those discussed above and those summarized in the enclosed Guide to Political Activity for State County and Municipal Employees. I have also enclosed a Campaign Finance Guide for Political Party Committees at the Ward, Town and City Level, which describes restrictions on Town Committees.

**12. May I serve as a representative Town Meeting member in the Town of Brookline?**

Yes. You should, however, contact the Ethics Commission, at (617) 727-0060, to ensure that such service is consistent with the Conflict of Interest Law, M.G.L. c. 268A and c. 268B.

If you intend to raise funds to campaign for town meeting member, since you are a public employee subject to M.G.L. c. 55, s. 13, you must organize a committee to do this on your behalf. Such a committee would not, however, be subject to the disclosure provisions of the campaign finance law. See AO-95-03 and AO-95-18.

**13. May I work on political campaigns other than engaging in fundraising, so long as it is done outside of regular business hours?**

Yes.

**14. What limitations exist on campaign contributions which I may make to any state, local or national candidate?**

You may contribute up to \$500 during a calendar year to any state or local candidate. See M.G.L. c. 55, s. 7A. Regarding federal candidates, you should contact the Federal Elections

Suzanne Smith  
March 11, 1996  
Page 5

Commission, at 1-800-424-9530, for guidance.

This opinion has been rendered solely on the basis of representations made in your letter, and solely in the context of M.G.L. c. 55.

Please do not hesitate to contact this office should you have additional questions about this or any other campaign finance matter.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Sullivan". The signature is written in dark ink and is positioned above the printed name and title.

Michael J. Sullivan  
Director

MJS/cp  
Enclosures